

Agenda Item: 18-69 **Request Approval of Hearing Officer's Report, Regulatory Impact Analysis and Adoption of Dam Safety CCR Rule 15A NCAC 2K .0224**

Explanation: The EMC asked the Division of Energy, Mineral, and Land Resources (DEMLR) staff to assess the equivalency of the State's CCR Dam Safety elements to those of the federal CCR requirements and to recommend needed changes in the State's Dam Safety program. After the analysis, the staff prepared a proposed additional rule, 15A NCAC 02K .0224, that would update the State's CCR, Dam Safety program to be "at least as protective as" the federal requirements. The EMC gave the DEMLR staff approval to take the proposed rule 15A NCAC 2K .0224 out to public hearing. Four hearings were held during the month of September 2018 in Goldsboro, Mooresville, Asheville and Reidsville. The hearing officers were Commissioners Dr. Lazorick, Mr. Puette, Mr. Pettus and Ms. Arata. The hearings were designed to receive comments on two sets of coal combustion residual rules. In addition to the Dam Safety Rule proposal, the Division of Waste Management presented a set of rules relating to the "Disposal and Recycling" of coal combustion residuals.

At the hearings, there were 38 attendees (not counting DEQ staff) with 16 of those attendees providing oral comments. Seven attendees provided oral comments that had a potential relationship to the Dam Safety rule and three letters were received commenting on the proposed rule. These comments, and the staff/hearing officer responses are including in the Report of Proceedings.

After considering the comments received, the staff recommended, and the hearing officers supported, that the rule be approved as it was sent to public hearing.

Recommendation: That the Environmental Management Commission provide approval of the Hearing Officer's Report, the Regulatory Impact Analysis and the Adoption of Dam Safety CCR Rule 15A NCAC 2K .0224.